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SUBJECT: MINISTERIAL CORRUPTION TRIAL: NOISE, NOT ACTION

REF: ABUJA 35

CLASSIFIED BY ACTING DCM DEAN WOODEN FOR REASONS 1.5 B AND D.

1. (C) Summary: Intrigues and suspicion -- but little action -- surround the snail-paced trial of former Nigerian ministers and other senior officials accused of receiving payoffs from a French company to facilitate winning of a multi-million dollar National Identity Card contract. The trial that started last December has been thrice adjourned, and both the trial judge and the leading prosecution counsel have been replaced without explanation. There are rumors that Chief Sunday Afolabi, a former Minister and President Obasanjo's 2003 campaign coordinator in the Southwest, had been poisoned after telling close aides he was ready to disclose how he used his share of the loot to finance Obasanjo's re-election. Another rumor flying around is that Hussaini Akwanga, Labor Minister until he was indicted, has left the country, but he has been seen in Abuja since and may only have embarked on a foreign trip in spite of court restrictions on his movements. End Summary.

#### BACKGROUND

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2. (U) On December 3, 2003 police arrested then Labor Minister Hussaini Akwanga, former Internal Affairs Ministers Afolabi and Shata, former Internal Affairs PermSec Akerele, former state governor and past ruling-PDP Secretary Okwesilieze Nwodo, and Internal Affairs Ministry Director Christopher Agidi. Nigerians were shocked when Secretary to the Government Ekaette announced on December 4 that Akwanga had been fired from his post as Labor Minister, as the present Constitution gives immunity to sitting Ministers. The prosecution by the GON's Independent Corrupt Practices Commission (ICPC) coincided with the Commonwealth Heads of Government Meeting (CHOGM) the GON was hosting in Abuja, and was seen variously as first fruits of Obasanjo's long proclaimed crackdown on corruption or as window dressing for CHOGM.

3. (U) On December 29, the ICPC presented a 16-count charge to Justice Bukar Ibrahim of the Abuja High Court accusing the ministers and their collaborators of receiving various sums of money totaling over USD 2 million in local and foreign currencies from one Mr. Niyi Adelagun, a Nigerian business partner of Sagem S.A., the French company that won the USD 214 million contract for the National Identity Card. The seven were indicted for corruptly receiving the money to support or favor the bidding process of Sagem S.A., while the ICPC brief accused Adelagun of offering the bribes. According to the ICPC, all of these are offenses punishable under section 19 of the Nigeria's Corrupt Practices and Other Related Offenses Act, 2000.

4. (U) Adelagun, who allegedly offered the bribes, did not appear before the court. The prosecutor and principal legal officer, Sanusi Kado explained that Adelagun was absent because the police had not been able to serve a warrant on him. Counsels to the accused objected to Kado's explanation, given that their clients had been arrested, and they challenged the indictment on the basis of Adelagun's absence. Justice Ibrahim dismissed their objection, noting that the ICPC prosecutor did not need to explain why others were not arrested (giving and receiving bribes being different crimes).

5. (U) Head of the Nigerian Civil Service Yayale Ahmed, whose name was connected with the scandal in the indictment, was not charged. Ahmed has claimed he had been offered USD 250,000 from the contract kickback, and had immediately reported the matter to security agents and the ICPC. Ahmed will likely be a key witness during the trial.

6. (U) Defense counsels asked that their clients be released on bail, and Justice Ibrahim granted bail December 31 citing Nigeria's Constitution and the ICPC Act that their offenses were bailable since they were not charged with capital crimes. Even if convicted on all charges, the maximum penalties would be no more than five and seven years. Ibrahim fixed the main trial for January 23 and ordered the defendants to remain within Abuja and to surrender their international passports to Abuja Commissioner of Police.

THE CASE IS GOING NOWHERE FAST...

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17. (U) On January 23 all the parties involved were present at the court except Justice Ibrahim, and the case was adjourned until March 25. Court sources told Political Specialist that Justice Ibrahim was out of Abuja at that time sitting as a member of an election tribunal hearing an ongoing suit against the 2003 elections: "The participation of Justice Ibrahim in the election tribunal was equally crucial and time-sensitive." The sources claimed, "Members of the election tribunals were working round the clock to meet deadlines."

18. (U) On March 25 the court reconvened again but made no progress in the case. Justice Mudashiru Oniyangi took over as the presiding judge, replacing Justice Ibrahim, and Chief Makanjuola Esan replaced Sanusi Kado as the ICPC prosecutor. No reasons were given for the changes. Esan asked for adjournment, saying he needed more time to study the case. Justice Oniyangi accepted that, adjourning until June 2. Before the adjournment, defense counsels asked that their clients be allowed to continue on the original terms of their bail. The ICPC Prosecutor oddly did not object, given longstanding ICPC complaints that bail allows the accused in corruption cases to escape justice, and Justice Oniyangi ruled that his predecessor's granting of bail would continue.

...WHILE THE ACCUSED SEEM TO GO WHEREVER THEY WANT  
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19. (C) There have been persistent rumors that the accused have traveled despite the terms of their bail. Ex-Labor Minister Akwanga was seen recently in Abuja, but his former aide tells us Akwanga traveled throughout Nigeria for consultations after his bail. Two sources from Akwanga's Nasarawa hometown have claimed publicly that he visited London in January. Attempting to debunk this story, the former aide said that "the court ordered him to deposit his passport with the FCT police command, so how could he travel abroad?" After being sacked in December, Akwanga was forcefully evicted from his official quarters and relocated to a private residence. Asked about the trial, the aide said Akwanga was initially worried but later he appeared to be confident. Others among the accused are similarly rumored to have traveled both inside and outside Nigeria.

OTHER RUMORS  
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10. (C) The case is surrounded by rumors. One of former Interior Minister Afolabi's family members told the press that soon after Afolabi was indicted and threatened to talk, he became seriously ill. Rumors started flying that he had been killed by poisoning. Afolabi's lawyer, J.B. Daudu, told Pol-Specialist that Afolabi had been admitted to the University of Ife Teaching Hospital Intensive Care Unit, and that Afolabi's condition continued to deteriorate daily. Daudu said neither the doctors nor the family could identify the exact nature of the illness. Other usually reliable sources say Afolabi has since been flown abroad to an unnamed location for treatment for an undisclosed renal problem, and that his chances of survival were very slim.

11. (C) Many rumors have it that President Obasanjo's wife Stella and son Gbenga are very afraid of Afolabi giving testimony in court. The First Lady is involved in a company that was working with the French company Sagem on the National Identity Card project, although neither she nor her company were mentioned in the indictment or in the ICPC prosecutor's wider presentation before the court. The rumors credit Stella and Gbenga with using their connections to ensure that Sagem got the contract, including the President's introducing the company to Afolabi. Various Embassy contacts tell us Stella's company used various "supplier" companies to gain about USD 36 million -- a recurring figure more than 15 times the amount of the alleged bribes in the ICPC indictment -- from the National Identity Card project.

12. (C) The National Identity Card project was conceived many years ago by then military head of state Obasanjo, and it was long rumored to have been used by succeeding military rulers of Nigeria to steal public funds before the return to civilian rule in 1999.

13. (C) Will the case make any headway from its next scheduled date of June 2? Most Nigerians are beginning to wonder. A local cigarette vendor put that view quite succinctly: "They may come up with another trick to postpone the trial, or at the end the trial may not produce any tangible result." The alternative view among Nigerians, first fruits of anti-corruption efforts, seems to be withering on the vine.

ROBERTS